

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**THE CITY OF HUNTINGTON and  
CABELL COUNTY COMMISSION,**

**Plaintiffs,**

**v.**

**CIVIL ACTION NO. 3:17-01362**

**AMERISOURCEBERGEN DRUG  
CORPORATION, et al.,**

**Defendants.**

**PLAINTIFFS' THIRD JOINT DISCOVERY STATUS REPORT**

Plaintiffs, the City of Huntington and Cabell County Commission, respectfully submit the following status report with the intention of updating the Special Master as to the progress of this case. We submit this in abbreviated form in light of our Discovery Status Conference with Special Master Wilkes on Friday, May 1, 2020 and our subsequent filing of Plaintiffs' Response to Defendants' Motion to Extend Court Deadlines (Doc. # 388).

**I. City of Huntington and Cabell County Commission's Document Production**

City of Huntington responded to Defendants Request for Production of Documents and agreed to produce documents, to the extent available, for fifty-one (51) individual custodians. Likewise, Cabell County has responded to Defendants' requests and agreed to produce documents for forty-eight (48) individual custodians. In addition to agreeing to produce custodial documents for these ninety-nine (99) current and former employees, Plaintiffs have also produced documents from their various departments impacted by the opioid crisis.

Remaining documents for production include the Cabell County Prosecuting Attorney's Office, subject to DR3, and additional hard copy documents recently identified by the Huntington Police Department.<sup>1</sup>

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<sup>1</sup> The Huntington Police Department identified additional hard copy documents while updating their workspace last week. These documents were immediately collected and are now being processed for review and production. The City

Defendants have identified eight (8) priority depositions for Cabell County and twelve (12) for the City of Huntington. The Parties are in process of reviewing correspondence and conferring with Counsel in regards to questions about Plaintiffs' custodial productions. The Parties will provide available dates for these deponents in the coming days. Plaintiffs anticipate being able to commence depositions as early as May 18, 2020.

## **II. Defendants' Production of Documents and Status of Deposition**

### **A. AmerisourceBergen**

The Parties are currently negotiating the production of twelve (12) custodial files, many of which were previously partially produced during CT1A.

Plaintiffs have also sought deposition dates for four (4) of AmerisourceBergen's current employees and two (2) former employees and will continue to coordinate with Counsel.

### **B. Cardinal Health**

Plaintiffs Motion to Compel Cardinal Discovery Responses, filed under seal on April 20, 2020 (Doc. # 350), is now fully briefed and ripe for ruling. Defendants' Opposition was filed under seal on 4/29/2020 (Doc. # 369). Plaintiffs filed their Reply on May 4, 2020 (Doc. # 389).

To date, Plaintiffs have requested deposition dates for four (4) Cardinal deponents and will coordinate with Counsel concerning these depositions.

### **C. McKesson**

The parties are in discussions regarding the production of six (6) custodial files. Production should be complete by May 15, 2020. Plaintiffs will seek deposition dates for these custodians and will coordinate with Counsel accordingly.

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of Huntington intends to continue its due diligence in ensuring the thoroughness and completion of its production. However, aside from the aforementioned additional hard copy documents, the City believes it has now completed its document production

Currently, Plaintiffs anticipate moving forward in seeking approximately 15-20 defendant-specific depositions. Plaintiffs will continue to meet and confer with Defendants regarding deposition dates and will seek the Court's assistance if the parties are unable to reach an agreement.

### **III. Third Parties**

Defendants filed a Motion to Compel DEA's discovery responses. The DEA responded on April 30, 2020, and Defendants reply brief is due on May 6, 2020.

Plaintiffs filed a Motion to Compel DEA's discovery responses on April 30, 2020. The DEA's response is due May 11, 2020, and Plaintiffs' reply is due on May 15, 2020.

As noted in our Response to Defendants' Motion to Extend Court Deadlines (Doc. # 388), there are a number of outstanding Third-Party Subpoenas, the vast majority of which have been issued by Defendants. To date, three Motions to Quash have been filed and held in abeyance while the parties negotiate the subpoenas (Doc. # 259, 260, and 309).

Dated: May 4, 2020

Respectfully submitted,

THE CITY OF HUNTINGTON

CABELL COUNTY COMMISSION

/s/ Anne McGinness Kearse

Anne McGinness Kearse (WVSB No. 12547)

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**CERTIFICATE OF SERVICE**

I hereby certify that service of the foregoing was filed electronically via the CM/ECF electronic filing system on May 4, 2020 and served on all counsel registered in the system and via email to plaintiffs' listserv at [mdl2804discovery@motleyrice.com](mailto:mdl2804discovery@motleyrice.com), defendants' listserv at [track2opioddefendants@reedsmith.com](mailto:track2opioddefendants@reedsmith.com).

/s/ Monique Christenson  
Monique Christenson (SC Bar No. 104063)